

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, November 10, 2021

Hearing Room 301

9:30 AM

1: -

Chapter

#0.00 You will not be permitted to be physically present in the courtroom. All appearances for this calendar will be via Zoom and not via Court Call. All parties participating in these hearings may connect from the zoom link listed below. This service is free of charge. You may participate using a computer or telephone.

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Docket 0

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Tentative Ruling:

- NONE LISTED -

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1:21-11061 Mehrdad B Nejad

Chapter 7

#1.00 Motion for relief from stay [RP]

NEWREZ LLC
VS
DEBTOR

Docket 33

Tentative Ruling:

In the body of the motion, the movant requests relief from the automatic stay as to the real property located at 5116 River Glen Drive, Unit 226, Las Vegas, NV 89103. The debtor's schedule A/B [doc. 9] also identifies an interest in that address. However, the deed of trust, promissory note and assignment, attached to the motion, reference real property located at 5116 River Glen Drive, Unit 26, Las Vegas, NV 89103.

The Court will continue this hearing to **9:30 a.m. on December 15, 2021**. No later than **November 17, 2021**, the movant must file and serve an amended motion for relief from the automatic stay, identifying the accurate address of the real property, and notice of the continued hearing date and the deadline to file and serve any response to the motion no later than 14 days before the continued hearing.

Appearances on November 10, 2021 are excused.

Party Information

Debtor(s):

Mehrdad B Nejad

Represented By
David S Hagen

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Jennifer C Wong

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
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1:21-11488 Cheryl E. Placencia Gundry

Chapter 7

#2.00 Motion for relief from stay [RP]

DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE
VS
DEBTOR

Docket 13

***** VACATED *** REASON: Movant did not provide tabbed chambers
copies of the motion**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cheryl E. Placencia Gundry

Represented By
Matthew D. Resnik

Movant(s):

DEUTSCHE BANK TRUST

Represented By
Jenelle C Arnold

Trustee(s):

David Seror (TR)

Pro Se

**United States Bankruptcy Court
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9:30 AM

1:18-12252 Leon Gerald Williams

Chapter 13

#3.00 Motion for relief from stay [AN]

MERCEDES-BENZ FINANCIAL SERVICES USA LLC
VS
DEBTOR

Docket 57

Tentative Ruling:

Grant relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1).

Movant states that it seeks recovery only from applicable insurance.

Movant may proceed under applicable nonbankruptcy law to enforce its remedies to proceed to final judgment in the nonbankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the debtor and property of the debtor's bankruptcy estate.

Movant may proceed against the non-debtor defendants in the nonbankruptcy action.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Any other request for relief is denied.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Leon Gerald Williams

Represented By
Matthew D. Resnik

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CONT... Leon Gerald Williams

Chapter 13

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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Hearing Room 301

9:30 AM

1:19-12658 Dan S Watanabe

Chapter 13

#4.00 Motion for relief from stay [RP]

BANK OF AMERICA, N.A.
VS
DEBTOR

Stip to continue filed 11/4/21

Docket 91

***** VACATED *** REASON: Order approving stip entered 11/4/21.
Hearing continued to 12/15/21 at 9:30 AM. [Doc.#97]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dan S Watanabe

Represented By
Randolph L Neel

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Jenelle C Arnold

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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9:30 AM

1:21-11734 Susanna Shahinyan

Chapter 13

#5.00 Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 12

Tentative Ruling:

The Court will grant the motion on an interim basis up to the date of the continued hearing. The Court will continue this hearing to **9:30 a.m. on January 12, 2022.**

No later than November 24, 2021, the debtor must serve **on all secured creditors** notice of the continued hearing date and time and the deadline to file any response 14 days prior thereto. In addition, the debtor must timely pay: (1) her deed of trust payments in the amount of \$1,050.00 (as stated in her current Schedule J) as to the real property located at 9024 Willis Avenue, #8, Panorama City, CA 91402; (2) her deed of trust payments in the amount of \$3,277.24 (as stated in her current Schedule J) as to the real property located at 6020 Duchess Drive, Whittier, CA 90606; and (3) her November and December 2021 plan payments in the amount of \$4,750.00, as stated in the debtor's proposed chapter 13 plan [doc. 2].

No later than December 29, 2021, the debtor must file a declaration to demonstrate that she timely made her required postpetition deed of trust and chapter 13 plan payments.

The debtor must submit an order within seven (7) days.

Party Information

Debtor(s):

Susanna Shahinyan

Represented By
Thomas B Ure

Movant(s):

Susanna Shahinyan

Represented By

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CONT... **Susanna Shahinyan**

Thomas B Ure

Chapter 13

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:30 PM

1:20-10026 Joseph Wanamaker

Chapter 7

Adv#: 1:21-01060 Goldman v. Thomas et al

- #6.00** Status conference re: complaint for:
1. Avoidance of actual fraudulent transfer (11 U.S.C. §548(a)(1)(A));
 2. Avoidance of constructive fraudulent transfer §548(a)(1)(B);
 3. Avoidance of actual fraudulent transfer under applicable California Law (CAL. CIV. CODE §§ 3439.04(a)(1) and 3439.07 and 11 U.S.C. §544(b);
 4. Avoidance of constructive fraudulent transfer under applicable California Law (CAL. CIV. CODE §§ 3439.05 and 3439.07 and 11 U.S.C. § 544(b);
 5. Recovery of avoided transfer (11 U.S.C. §550(a); and
 6. Preservation of avoided transfer (11 U.S.C. §551)

Docket 1

Tentative Ruling:

Within seven (7) days after this status conference, the plaintiff must submit an Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator using Form 702. **During the status conference, the parties must inform the Court of their choice of Mediator and Alternate Mediator.** The parties should contact their mediator candidates before the status conference to determine if their candidates can accommodate the deadlines set forth below.

Deadline to complete discovery: 3/31/22.

Deadline to complete one day of mediation: 4/15/22.

Deadline to file pretrial motions: 5/11/22.

Deadline to complete and submit pretrial stipulation in accordance with Local Bankruptcy Rule 7016-1: 6/1/22.

Pretrial: 6/15/22 at 1:30 p.m.

In accordance with Local Bankruptcy Rule 7016-1(a)(3), within seven (7) days after this status conference, the plaintiff must submit a Scheduling Order.

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CONT... Joseph Wanamaker

Chapter 7

If any of these deadlines are not satisfied, the Court will consider imposing sanctions against the party at fault pursuant to Local Bankruptcy Rule 7016-1(f) and (g).

Party Information

Debtor(s):

Joseph Wanamaker

Represented By
Peter M Lively

Defendant(s):

Ronald Thomas

Pro Se

Does 1 to 10

Pro Se

Plaintiff(s):

Amy L Goldman

Represented By
Leonard Pena

Trustee(s):

Amy L Goldman (TR)

Represented By
Leonard Pena

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1:20-10346 Alan Gene Lau

Chapter 7

Adv#: 1:20-01053 Prior et al v. Lau et al

#7.00 Pretrial conference re complaint to determine the dischargeability of debt pursuant to 11 U.S.C. sec 523(a)(2)

fr. 7/29/20; 3/10/21; 3/24/21; 6/2/21; 7/28/21; 9/22/21

Docket 1

Tentative Ruling:

Contrary to the Court's Order [doc. 42], the parties did not file the revised joint pre-trial stipulation with a **statement confirming that all exhibits have been exchanged between the parties**. In addition, it appears that the parties have not updated the exhibit list from the previous exhibit list filed on September 21, 2021 [doc. 37]. In total, the parties identified seventeen (17) exhibits for trial.

Contrary to Local Bankruptcy Rule 7016-1(b)(2)(D), the following exhibits do not have a description sufficient for identification:

- #14 (Plaintiff) – "Estimate from Bristol Restoration" contains vague language;
- #16 (Plaintiff) – "Appraisal Report" does not identify the author or date of report.

The parties identify seven (7) witnesses expected for trial. Contrary to Local Bankruptcy Rule 7016-1(b)(2)(E), the parties do not provide a concise summary of the subject of their proposed testimony.

Does either party intend to submit expert testimony? In accordance with Local Bankruptcy Rule 7016-1(b)(2)(E), if expert testimony is to be submitted, such as testimony from an appraiser or any expert as to damages, **the parties must exchange short narrative statements of the qualifications of the expert and the testimony expected to be elicited. If the expert has prepared a report, the report must be exchanged as well.** Have the parties done that?

In accordance with Local Bankruptcy Rule 7016-1(b), the parties **must file** a revised

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Alan Gene Lau

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joint pre-trial stipulation with the following: (1) first, a statement confirming the parties have exchanged copies of all exhibits; (2) secondly, as noted above, the exhibit list must contain a description of each, sufficient for identification; (3) thirdly, the parties must attach a concise summary of the subject of each witness's proposed testimony.

Prior to trial, **the Court will require the parties to submit written declarations of all witnesses (including the parties) providing direct testimony.** At the upcoming hearing, the parties should be prepared to address any issues they foresee in filing such written declarations.

Cross-examination, if requested, will take place on the scheduled days. The Court will require in-person appearances, and all witnesses, parties, and counsel must wear a mask or clear face shield.

Party Information

Debtor(s):

Alan Gene Lau

Represented By
Kevin T Simon

Defendant(s):

Alan Gene Lau

Pro Se

DOES 1 through 10, inclusive

Pro Se

Joint Debtor(s):

Amber Ann Waddell Lau

Represented By
Kevin T Simon

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CONT... Alan Gene Lau

Chapter 7

Plaintiff(s):

Russell Prior

Represented By
Alana B Anaya

Cheryl Prior

Represented By
Alana B Anaya

Trustee(s):

Amy L Goldman (TR)

Pro Se

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1:20-10659 Nasrin Nino

Chapter 7

Adv#: 1:21-01058 Nino v. CALIFORNIA DEPARTMENT OF TAX AND FEE

#8.00 Status conference re complaint for declaratory relief that state tax liens against her ex-husband do not attach to debtor's property

Stipulation for judgment filed 10/12/21

Docket 1

***** VACATED *** REASON: Order approving stipulation entered
10/13/21. [Doc.15]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nasrin Nino

Represented By
David S Hagen
Alda Shelton

Defendant(s):

CALIFORNIA DEPARTMENT OF

Pro Se

Plaintiff(s):

Nasrin Nino

Represented By
Alda Shelton

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Carmela Pagay

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1:20-11850 Mariyan Khosravizadeh

Chapter 7

Adv#: 1:21-01003 Soleimanian et al v. Khosravizadeh

#9.00 Pretrial conference re: complaint for non-dischargeability of debt pursuant to 11 U.S.C. § 523(a)(A) & 523(a)(6), and for discharge of bankruptcy pursuant to 11 U.S.C. § 727(a)(4)(A) & § 727(a)(3)

fr. 3/24/21

Docket 1

Tentative Ruling:

Contrary to Local Bankruptcy Rule 7016-1(b), the parties did not timely submit a joint pretrial stipulation. Consequently, the Court will issue an Order to Show Cause why this adversary proceeding should not be dismissed for failure to prosecute.

The Court will prepare the Order.

Party Information

Debtor(s):

Mariyan Khosravizadeh

Represented By
Stephen L Burton

Defendant(s):

Mariyan Khosravizadeh

Pro Se

Plaintiff(s):

Hamid Soleimanian

Represented By
Sanaz Sarah Bereliani

KAM LP

Represented By
Sanaz Sarah Bereliani

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

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1:20-11850 Mariyan Khosravizadeh

Chapter 7

Adv#: 1:21-01004 Soleimanian et al v. Khosravizadeh

#10.00 Pretrial conference re: complaint for non-dischargeability of debt pursuant to 11 U.S.C. § 523(a)(2)(a), 523(a)(4) & § 523(a)(6)

fr. 3/24/21

Docket 1

Tentative Ruling:

Contrary to Local Bankruptcy Rule 7016-1(b), the parties did not timely submit a joint pretrial stipulation. Consequently, the Court will issue an Order to Show Cause why this adversary proceeding should not be dismissed for failure to prosecute.

The Court will prepare the Order.

Party Information

Debtor(s):

Mariyan Khosravizadeh

Represented By
Stephen L Burton

Defendant(s):

Mariyan Khosravizadeh

Pro Se

Plaintiff(s):

Amir Soleimanian

Represented By
Sanaz Sarah Bereliani

Soleiman Partners

Represented By
Sanaz Sarah Bereliani

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

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1:20-11166 Lanny Jay Dugar

Chapter 7

Adv#: 1:20-01083 Bjornbak et al v. Dugar

#11.00 Motion to quash subpoena seeking non-party's records from Bank of America, N.A., and for a protective order and request for monetary sanctions against Qiang Bjornbak

fr. 10/20/21

Docket 26

Tentative Ruling:

From November 3, 2021 through November 5, 2021, the plaintiffs and movant Moshe Ben Nissan filed several pleadings and declarations [docs. 42-47, 50]. The plaintiffs and Mr. Nissan appear to dispute whether: (A) they were required to meet and confer; (B) the plaintiffs properly served the subject subpoena on Mr. Nissan; and (C) Mr. Nissan is entitled to a protective order.

Regarding the meet and confer requirement of Local Bankruptcy Rule ("LBR") 7026-1(c), Mr. Nissan requests sanctions against the plaintiffs for failing to meet and confer prior to the continued hearing. On October 20, 2021, the Court issued a ruling in connection with the initial hearing on this matter (the "Ruling") [doc. 38]. In the Ruling, the Court stated that, unless the parties failed to comply with the instructions set forth in the Ruling, the Court would not impose sanctions on either party.

Although the Court noted the parties' failure to meet and confer prior to the initial hearing on this matter, the Court did not require the parties to meet and confer prior to the continued hearing. As such, any failure to meet and confer is not a basis for sanctions. Moreover, it appears the plaintiffs complied with the remainder of the Court's instructions. Specifically, the plaintiffs: (A) provided a declaration by Jibing Li and the full tracking number related to service of the subject subpoena on Mr. Nissan; and (B) filed a motion, in accordance with LBR 9037-1(a), for an order restricting access to certain documents. As a result, the Court will not sanction either party.

With respect to the dispute over service of the subject subpoena, the plaintiffs

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provided the full tracking number associated with service of the subpoena. Declaration of Qiang Bjornbak [doc. 43], Exhibit 2. The receipt bearing the tracking number is stamped August 31, 2021; in addition, a search of the tracking number reflects that the subpoena was delivered and left with an individual on September 14, 2021, i.e., before Bank of America produced the documents to the plaintiffs.

In any event, given the continuance of this matter and the opportunity the Court provided both parties to brief the issues, the Court will not hold that Mr. Nissan waived his right to object to the subject subpoena. Rather, the Court will rule on the merits of the motion. [FN1].

"Federal Rule of Evidence ("FRE") 1101 provides that the rule of evidentiary privilege of the FRE applies to all stages of proceedings before bankruptcy judges." *In re Yassai*, 225 B.R. 478, 482 (Bankr. C.D. Cal. 1998). "Under the FRE, 'evidentiary privileges in federal question cases are governed by federal common law.'" *Id.* (quoting *Dole v. Milonas*, 889 F.2d 885, 889 n.6 (9th Cir. 1989)). "The Ninth Circuit has stated that it knew 'of no authority which recognizes a privilege for communications between bank and depositor' and 'decline[d] to create such a privilege....'" *Id.*, at 483 (quoting *Harris v. United States*, 413 F.2d 316, 319 (9th Cir. 1969)). "In subsequent cases, courts have uniformly held that the banker depositor privilege was not recognized at common law and does not exist in the Federal Courts." *Id.* (internal quotation omitted).

To the extent Mr. Nissan contends he has a privacy interest in the subject records, any such interest is subject to a balancing test. *Stallworth v. Brollini*, 288 F.R.D. 439, 444 (N.D. Cal. 2012). "Relevant factors to be considered in this balancing test include the type of record requested, the information it does or might contain, the potential for harm in any subsequent non-consensual disclosure, the injury from disclosure to the relationship in which the record was generated, the adequacy of safeguards to prevent unauthorized disclosure, the degree of need for access, and whether there is an express statutory mandate, articulated public policy, or other recognizable public interest militating toward access." *Id.*

In applying the balancing test, the plaintiffs have not articulated why they need Mr. Nissan's personal bank account records and personal credit card information. In their motion for summary judgment, the plaintiffs discuss transfers between debtor and business entities and between business entities. However, neither the complaint nor

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the motion for summary judgment clarify why Mr. Nissan's **personal** banking information or **personal** credit cards are relevant to the plaintiffs' prosecution of this case. As such, unless the plaintiffs can articulate the relevance of such documents, the Court will issue a protective order prohibiting the use, dissemination, sharing or disclosure of these records.

In addition, in the submitted emails, it appears the plaintiffs offered not to use documents from Bank of America dated before January 1, 2017 or to use records related to the business "Expresso Coffee Machine." Declaration of Anne C. Manalili [doc. 42], ¶ 42, Exhibit 14. In light of the plaintiffs' agreement not to use these records, and the fact that the plaintiffs' original request for records was overbroad, i.e., as to time, and because plaintiffs did not know the specific holder(s) of the accounts identified in the subpoena, the Court also will issue a protective order prohibiting the use, dissemination, sharing or disclosure of records dated before January 1, 2017 and records related to Expresso Coffee Machine.

The movant must submit a proposed order within seven (7) days.

FOOTNOTES

1. In his reply [doc. 42], Mr. Nissan references 11 U.S.C. §§ 3402 and 3407. However, those statutes do not exist. Presumably, Mr. Nissan referenced the incorrect Title. Nevertheless, by Mr. Nissan's own admission, the statutes he attempted to cite apply to subpoenas issued by the *government*.

Party Information

Debtor(s):

Lanny Jay Dugar

Pro Se

Defendant(s):

Lanny Jay Dugar

Pro Se

Plaintiff(s):

David Bjornbak

Represented By

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Qiang Bjornbak

Qiang Bjornbak

Represented By
Qiang Bjornbak

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

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1:20-11286 Transpine, Inc.

Chapter 7

#12.00 Chapter 7 Trustee's Motion to Approve Compromise of Controversy

Docket 206

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Transpine, Inc.

Represented By
Leslie A Cohen
Paul M Kelley

Movant(s):

David Keith Gottlieb (TR)

Represented By
Ron Bender
Carmela Pagay
Richard P Steelman Jr

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Ron Bender
Carmela Pagay
Richard P Steelman Jr